

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Art Unit : 3661
Examiner : Olga Hernandez
Applicant : Jan Ryderstam et al.
Appln. No. : 10/694,167
Filing Date : October 27, 2003
Confirmation No. : 3060
For : TRACTIVE FORCE MAP

Commissioner for Patents
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APPLICANT'S REPLY UNDER 37 C.F.R. § 1.193

This is in reply to Examiner's Answer dated as mailed October 29, 2007.

Items (1-7):

The Examiner has agreed that these items are acceptable as listed in the Appeal Brief.

Item (7): Claims Appendix

The Examiner agreed that a correct copy of the appealed claims appears in the Appendix of the Appeal Brief.

Item (8): Evidence Relied Upon

The Examiner has correctly listed the references used to reject the claims in the present application.

Items (9 and 10) Reply to Examiner's Grounds of Rejection and Arguments:

The Applicant's Appeal Brief stands, and is incorporated herein in its entirety. The following comments are intended to directly reply to the Examiner's Answer.

According to the Examiner's Answer, independent claim 1 only claims a comparison of two numbers and then a modification of one of the numbers. However, claim 1 clearly claims

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more than just a comparison and a modification. Furthermore, it appears that the Examiner's Answer is stating that the Kitano et al. '959 patent includes all of the features of claim 1 in different parts of the vehicle that do not interact. As set forth in the Appeal Brief, the sections of the Kitano et al. '959 patent referenced to by the Examiner to reject claim 1 are drawn to different parts of a vehicle (e.g., front wheels and rear wheels). The Examiner's Answer appears to be stating that the front wheels are used to perform some steps of claim 1 and the rear wheels are used to perform other steps of claim 1, without those steps interacting in any manner. However, all of the steps of claim 1 are interrelated. In summation, the Kitano et al. '959 patent does not disclose modifying an actual tractive force of a vehicle to be equal to a tractive force request, especially not with reference to a desired tractive force of a driver and an actual tractive force.

It is noted that with the method of the present invention, any internal or external forces acting on a vehicle will be compensated for to obtain the desired tractive force. Contrarily, it is Applicants' understanding that previous to the present invention, a vehicle would respond to the position of an acceleration pedal by supplying a certain amount of fuel to an engine without regard to any internal or external forces acting on a vehicle. Therefore, if the wheels of the vehicle were slipping, if there was engine braking, and/or if there was wind against the vehicle (as examples), the engine would continue to supply the same amount of fuel. Accordingly, the actual tractive force of the vehicle would change depending on the situation of the vehicle with the acceleration pedal being in one position and the vehicle traveling at a certain speed – and the actual tractive force would not be equal to the desired tractive force. However, with the invention as claimed in claim 1, the actual tractive force of the vehicle will always be equal to the desired tractive force with the acceleration pedal being in one position and the vehicle traveling at a certain speed. Therefore, with the present invention, if the wheels of the vehicle were slipping (for example), the slippage would be accounted for to maintain the vehicle at the desired tractive force because the actual tractive force is set to be equal to the desired tractive force. It is this

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feature of the present invention, where the actual tractive force is set to be equal to the desired tractive force, that makes claim 1 patentable.


Finally, Applicants note that the Examiner's Answer includes statements that "a claim directed to an apparatus must be distinguished from the prior art in term of structure rather than function" and that "[w]hen interpreting functional language, if the prior art is capable of performing the claimed function 'even if not directly disclosed', it anticipates." (emphasis in original). However, all of the claims of the present application are method claims and therefore the two above statements are inapplicable. The prior art must directly disclose all the steps of the claimed method to anticipate the claims.

Therefore, each appealed claim recites features that are not disclosed in any of the cited references and it would not have been obvious to modify the cited references to include the recited features of the appealed claims. The reference upon which the Examiner relies in the Examiner's rejection of the claims does not disclose or make obvious a method as claimed. Applicant's invention resolves problems and inconveniences experienced in the prior art, and therefore represents a significant advancement in the art. Applicant earnestly requests that the Examiner's rejection of claims 1-20 be reversed, and that the application be passed to allowance forthwith.

Respectfully submitted,

December 27, 2007

Date



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